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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 April 2000, at 10 a.m.

Chairman	Mr. SIMKHADA	(Nepal)
later	Mr. IBRAHIM (Vice-Chairman)	(Sudan)
later	Mr. SIMKHADA (Chairman)	(Nepal)

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GE.00-12387 (E)

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(c) FREEDOM OF EXPRESSION;

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY;

(e) RELIGIOUS INTOLERANCE;

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The meeting was called to order at 10.10 a.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN.4/2000/6 and Add.1-2, 46 and Add.1, 47-49, 51, 52/Add.1 and 53; E/CN.4/2000/NGO/13, 14, 32, 34, 40, 46, 49, 61, 76, 77, 90, 93, 94, 113, 125 and 140; CHR/RES/1998/25 and 26; E/CN.4/Sub.2/1999/10 and 12; E/CN.4/1999/48 and 49; E/1999/55; A/54/222 and Add.1 and 316)

1. Mr. CONTRERAS (Andean Commission of Jurists) said that the realization of economic, social and cultural rights depended on a number of factors, many of which were beyond the control of States. Financial institutions had a steadily increasing influence on the use of national resources and policy-making. The issue of economic and political sovereignty was therefore integral to the current agenda item. Economic, social and cultural rights were closely linked to poverty, which was largely a function of the distribution of resources, and the gap between rich and poor was steadily widening. Other major problems were unemployment and underemployment.

2. Policy in all the Andean countries was determined by the need to service foreign debt, on average, 20 per cent of the budget being earmarked for that purpose. The situation in Bolivia and Ecuador was particularly bad. Despite recent reforms, the economic situation in Bolivia made it impossible for the country to improve its access to economic, social and cultural rights whereas, in Ecuador, the economic situation had caused a social conflict and the downfall of the President. In Ecuador, the Government's room for manoeuvre was severely limited and it had no choice but to apply the solutions dictated by the international financial organizations, with the result that a fresh political crisis was more than likely, one that could have even more serious consequences.

3. Mr. Ibrahim, (Sudan), Vice-Chairman, took the Chair.

4. Mr. EMMANUEL (Interfaith International) said that he wished to bring to the Commission's notice the escalating violations of the humanitarian, social and cultural needs of the Tamil people perpetrated by the Sri Lankan Government. That Government was enforcing an inhuman economic blockade against the Tamil people living in the north east of the country. International non-governmental organizations (NGOs) were also affected by the blockade. The Government was using the economic blockade and mass arrests of Tamil civilians as weapons of war and as a means of causing the slow but sure genocide of the Tamil people.

5. He welcomed the latest initiative by the Norwegian Government to bring the conflicting parties together for peace talks, and regretted the vehement opposition to those initiatives by Sinhala Buddhist prelates. No meaningful peace talks could take place, however, without the de-escalation of the war and the removal of all repressive measures against the Tamil people.

6. Mr. THOMPSON (Australian Council for Overseas Aid) said that his organization shared the concerns of the Special Rapporteur on the situation of human rights in Myanmar, as reflected in his most recent report (E/CN.4/2000/3). The ethos and practice of militarism by the Government of Myanmar contributed to the denial of the economic, social and cultural rights of its people. Their rights to food and education were being systematically violated. The country

had once had one of the highest literacy rates in the world and a superb education system. Currently, however, the use of local or ethnic languages in schools was prohibited and teachers were jailed and tortured for teaching in non-Burman languages. Primary school students had to join the civilian arm of the military in order to graduate to secondary level. Training programmes opened in response to international criticism appeared to have been used to attract finance for the military and as a public-relations exercise. The limited access afforded to the International Committee of the Red Cross (ICRC) would do nothing to stem increasing impoverishment while the Government continued to increase military expenditure.

7. The Commission must urge the Government of Myanmar to allow the Special Rapporteur to visit the country. His organization supported the call by the Asian Legal Resource Centre for the establishment of an international commission to examine the denial of the right to food, which was a crime against humanity, punishable under international law.

8. Mr. Simkhada (Nepal) resumed the Chair.

9. Mr. MASOOD (World Muslim Congress) said that it was ironic that such a sharp contrast existed between theory and practice in respect of economic, social and cultural rights. The reality of that contrast was particularly evident in formerly colonized developing countries. Under colonial rule, the peoples of such countries had no control over their destinies or natural resources. Peoples, such as the Kashmiris and the Palestinians, living under an aggressor or an occupying Power, were systematically denied their economic, social and cultural rights.

10. The joint report of the Special Rapporteur on foreign debt and the independent expert on structural adjustment policies (E/CN.4/2000/51) presented a realistic analysis of the third-world debt problem and the heavily indebted poor countries (HIPC) initiative. That initiative and the International Monetary Fund (IMF) Enhanced Structural Adjustment Facility (ESAF) was merely a way for the IMF and the World Bank to control the national development policies of poor and indebted countries. Meanwhile, United Nations agencies such as the United Nations Development Programme (UNDP) were mere onlookers, and the Office of the High Commissioner for Human Rights (OHCHR) lacked the technical expertise to play any role in that regard.

11. That situation must be rectified forthwith. Extreme poverty was one of the main challenges faced by the international community. He therefore welcomed the importance attached by the Commission to the elaboration of a declaration on the issue of extreme poverty and human rights.

12. Mr. KHALID (Muslim World League) said that the link between civil and political rights and economic, social and cultural rights was apparent not only to human rights defenders but also to the perpetrators of human rights violations. The right to food, one of the most important rights, was often violated by a combination of bad government policy and climatic conditions, when it was not a deliberate policy of an oppressor.

13. Collective punishment was used to break the resistance of the peoples living under occupation, and frequently involved the destruction of the means of livelihood or a denial of

basic medical care. Occupying Powers were also frequently responsible for indirect violations of economic, social and cultural rights by corrupt administrators having no interest in the well-being of the people living under occupation.

14. His organization thus fully supported the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, and urged the Commission to establish a working group so that work could commence on that important instrument. Indeed, it hoped that the optional protocol would be optional in name only since universal ratification of the International Covenant and the optional protocol would help to reduce the number of gross violations of economic, social and cultural rights.

15. Mr. BALTI (ATLAS-Association tunisienne pour l'autodéveloppement et la solidarité) said that there was nothing inevitable about poverty and underdevelopment and the international community had shown that it could respond to a crisis. The next step was to meet the challenges of the future. His organization worked to help the poorest sections of the population in the rural areas in the north of Tunisia. It provided professional training and helped develop mountain agriculture and crafts, enabling the local people to regain their cultural heritage. Much of the work had been achieved with the aid of micro-credit for small projects with women and young people. It was an effective means of assistance and should be encouraged by Governments, the United Nations and donors. He echoed his President's call for the establishment of a world solidarity fund to finance activities that benefited the poorest people.

16. Ms. RUPPRECHT (International Institute for Peace) said that freedom of belief had to be guaranteed, particularly in multi-religious, multi-ethnic societies. Yet religious and ethnic discrimination were still rampant, sometimes resulting from age-old prejudices, but sometimes sanctioned by States. Whole sections of some societies, as in Afghanistan, had been unable to preserve their economic and other rights.

17. The mushrooming growth of terrorist groups with a global agenda was another threat to the preservation of rights. In Jammu and Kashmir, terrorist groups operating out of Pakistan and espousing a fundamentalist ideology had all but destroyed an ancient ethos of religious harmony. An entire community of Kashmiri Pandits had been driven out of their land by measures conducted in the name of religion. If reports were correct, it was the turn of the highly energetic and productive Sikh community in Indian Kashmir.

18. Increasingly, groups were emerging for which the destruction of established plural societies was God's work. They singled out specific groups such as the Jews or the Hindus as targets. It was regrettable that international terrorism had not been listed as a separate agenda item at the current session. A new global ethos incorporating immediate responses to extremism and terrorism was essential.

19. Ms. PEREIRA RAMÍREZ (Federation of Cuban Women) said that, in 1980, the number of poor people in the Latin American and Caribbean region had amounted to 136 million. In 1990, following the debt crisis, the number had risen to 198 million and in 1994 to 210 million. In other words, structural adjustment had in a mere 14 years left 74 million people in poverty.

The numbers of the very poorest had also risen; one in five Latin Americans came into that category. It would be a cruel mockery to speak to such people of their economic, social and cultural rights.

20. Cuba was striving for development to improve the quality of life and satisfy the spiritual and material needs of all its people. Unfortunately, its progress was frustrated by the senseless United States blockade, which constituted the main obstacle to the enjoyment by Cuban women and men of their human rights. The blockade had had an appreciable impact on health and nutrition and it was only the iron determination of the Government to prioritize health services that had made it possible to maintain standards. Employment had suffered, too, with the closure of factories and the loss of jobs by women workers. Her country would, however, continue to work for fair, democratic and participatory development.

21. Ms. BHATTACHARJYA (Women's International League for Peace and Freedom) said that it had become clear from two international events held by the League over the past year, one in Costa Rica and the other in Japan, that, despite the economic differences between the two countries, women workers faced similar experiences in both: increasing impoverishment, erosion of their rights and welfare services, the endangering of food security and health and a dangerous shift in State priorities. Particular difficulties were experienced in the export processing zones (EPZs), where the majority of workers were women. They were subjected to physical violence and sexual harassment. The rhythm of work was relentless and owners sometimes locked the gates, forcing the employees to work all night. If a worker fell ill, she was first laid off and then dismissed. In some corporations, trade unionists were dismissed without payment.

22. The Commission should encourage the United Nations agencies to foster initiatives to improve the rights of women workers. The High Commissioner should encourage the Member States to apply their labour and social legislation to EPZs. She should also work with the International Labour Organization (ILO) to develop programmes enabling women to realize their rights to freedom of association and collective bargaining.

23. Mr. NEELSEN (Society for Threatened Peoples) said his organization was concerned about the plight of the Tamils in Sri Lanka. Far from recognizing the country's cultural and ethnic heterogeneity, successive Governments had favoured the majority Sinhalese community, which made up 70 per cent of the nation. Ever since independence in 1948, the social, economic and cultural rights of Tamils had been violated through disfranchisement, through State-sponsored colonization of the north-east by Sinhalese settlers and through an education and recruitment policy aimed at Sinhalizing the State. Over 90 per cent of civil servants and 99 per cent of the security forces were Sinhalese. The Government was suspected of wishing to eliminate the formerly superior competitiveness of the Tamils in view of the fact that there was a surplus of 14,000 Sinhala middle-school teachers, as against a shortage of 10,000 Tamil ones.

24. The Government's constitutional proposals had been hailed as a model for solving ethnic conflicts. In fact, however, it reaffirmed the unitary State. The Tamil language was reduced to being a local vernacular. The decentralization of power gave the regions no more authority than a local council. At first the Tamils had sought to redress the systematic violation of their rights

by peaceful means, but promises had been broken and increasingly bloodier pogroms had been carried out against them. They had therefore taken up arms in 1983, with the result that 55,000 people had died, 800,000 were internally displaced and many had left the country.

25. He wondered how long the Commission would continue to listen to the reports of its own special rapporteurs and NGOs without addressing the primary causes of the massive human rights violations in Sri Lanka. By sanctifying the territorial integrity of existing States, the United Nations had effectively given carte blanche to repressive Governments vis-à-vis minority peoples. Such internal colonialism posed the greatest threat to the unity and territorial integrity of States. The Commission should thus reconsider the content and applicability of the right to self-determination. A first step would be to focus on the State-sponsored violation of social, economic and cultural rights as a potential underlying cause of conflict.

26. Mr. OWONA (International Young Catholic Students) said that international assistance was urgently required to address the education crisis in a number of countries. In the Republic of Moldova, teachers' monthly salaries amounted to less than US$ 50 and were delayed for up to five months. Many teachers were consequently abandoning the profession. In those rural schools which had managed to survive, teaching was typically carried out by non-skilled staff. Moreover, winter saw many schools having to close as a result of electricity and gas shortages. Less than 40 per cent of all library books were in Moldavan, even though it was the country's official language; the rest were in Russian. In many rural libraries, fewer than 1 per cent of books were in Moldavan. As a result of the economic crisis, many publishing houses were operating without profit; others had been forced to close.

27. In India, literacy rates remained low and nearly half the 6 to 11 year-olds received no schooling. In the Asia and Pacific region, there were 44 countries that had collaborated with United Nations agencies to promote the right to education. Although some progress had been made, particularly in terms of raising awareness, numerous disparities persisted. In particular, the quality of basic education in those countries needed to be addressed, as should the adaptation of the curricula to local requirements.

28. In Africa, the situation with respect to education remained alarming, with Governments everywhere lacking the necessary budgetary resources. At the local level, families remained largely ignorant of issues relating to discrimination against girls.

29. International aid and proceeds from the alleviation of foreign debt should be used as a priority to strengthen primary education.

30. Ms. OUHACHI VESELY (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes) said that the human rights mechanisms should be given sufficient financial and human resources to permit them to carry out their mandates and to operate in a credible fashion. Member States should respond positively to requests by special rapporteurs to visit their countries. In view of the universality, indivisibility and interdependence of human rights, it was unacceptable that there should be a funding hierarchy, with only certain mandates benefiting from supplementary resources fed by voluntary contributions. The Commission should take vigorous measures to redress the current imbalance.

31. Human rights mechanisms should be geared less towards complaints, denunciations and sanctions and more towards developing means of helping and rehabilitating victims, inter alia through technical assistance. The Commission should also consider the role and responsibility of private entities - especially transnational companies - in safeguarding human rights, protecting the environment and promoting sustainable development.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF GUATEMALA

32. Mr. GODOY (Guatemala) said that his country was in the process of rebuilding democracy after 36 years of a civil war during which successive military and authoritarian regimes had pursued policies involving the worst violations of human rights endured by any Latin American country. Guatemala had been greatly assisted in that process by the international human rights apparatus and the United Nations and Inter-American systems, and had been able to make good progress in developing new institutions. It had also been able to reach a negotiated settlement to the armed internal conflict.

33. The negotiations leading to the 1996 peace agreement had covered the main issues relating to civil and political rights, fundamental freedoms and economic, social and cultural rights; and the Comprehensive Agreement on Human Rights had been signed as early as 1994. The United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) had been monitoring the implementation of the Peace Agreements and had produced a number of reports.

34. The situation was far from perfect, however. The most serious problems related to public security and the administration of justice. A process was under way to reform and modernize the judicial system, which would take into account the recommendations made by the Special Rapporteur on the independence of judges and lawyers in the report on his mission to Guatemala (E/CN.4/2000/61/Add.1). The part played in human rights violations by State agents such as police officers and the military had been recognized, and the State had assumed responsibility for certain cases of such violations, thereby encouraging the administration of justice and helping to break down the system of impunity.

35. His Government wished to continue and extend its policy of cooperation with the organizations of the United Nations system and was in the process of formulating a national plan of action for human rights. It greatly appreciated the technical cooperation provided by OHCHR and hoped that such technical cooperation would continue. It was considering the early ratification of important international instruments including the two International Covenants on Human Rights. It had recently deposited the instrument of ratification of the Inter-American Convention on the Forced Disappearance of Persons and urged the Commission to establish a working group to prepare a convention on forced disappearances, which would categorize them as a crime against humanity. His Government had cooperated fully with the special mechanisms of the Commission (it had received visits from two special rapporteurs) and would continue to do so in the best interests of the country and its people.

36. It was vital that the Commission should continue to monitor the situation of human rights in every part of the world. The results of the special session on East Timor had been particularly

positive and he hoped that an investigation would be carried out into those responsible for the bloody events that had occurred in that country. The situation in the Balkans was still explosive, and he hoped that the international community would take more decisive action to strengthen the United Nations presence there. With regard to Chechnya, his Government recognized the sovereign right of the Government of the Russian Federation to maintain its territorial integrity and combat the separatism and terrorism fomented by rebel groups but urged it to guarantee the full application of international humanitarian law and to provide assistance and protection for the innocent victims of the conflict.

37. Guatemala, a country that was fully committed to the establishment of democracy and the rule of law, was concerned by the continued existence of numerous authoritarian and dictatorial regimes which violated the civil and political rights and fundamental freedoms of their citizens. If the Commission was going to pronounce upon that problem, all such Governments must be subjected to scrutiny without any exception: there must be no double standards.

38. His Government was committed to applying the principles contained in the 1998 Declaration on human rights defenders and supported the creation of a special mechanism for their protection. It recognized the activities of Guatemalan NGOs defending human rights in general and those working for the specific rights of children, indigenous people, women and the handicapped. His Government supported the working groups that had drawn up draft optional protocols to the Convention on the Rights of the Child, and urged that they should be adopted and ratified forthwith, so as to increase the protection of the rights of the child. It attached particular importance to the draft protocol on the prevention of the sale of children, child prostitution and child pornography since, unfortunately, such problems did exist in Guatemala, as had been stated in the report of the Special Rapporteur on the subject. Such problems could be decisively tackled only through cooperation between States.

39. Guatemala, as a multi-ethnic, multicultural and multilingual society, was particularly interested in contributing to the international efforts to promote and protect the rights of indigenous peoples. The Peace Agreements had recognized the concept of indigenous peoples within a unified and indivisible State: he believed that that concept was fundamental to the success of the working group on the draft declaration on the rights of indigenous peoples. He urged the Commission to adopt at its current session a draft decision on the establishment of a permanent forum for indigenous people.

40. He had noted with satisfaction the consensus reached in the working group on enhancing the effectiveness of the mechanisms of the Commission and urged all States to continue to support those mechanisms in order to render more effective the promotion and protection of human rights throughout the world. International cooperation was essential: such cooperation had played a vital role in the Guatemalan peace process. Far from infringing upon national sovereignty, it had in fact strengthened that sovereignty, helped Guatemala to consolidate its democratic system and encouraged development.

41. He urged the Commission to continue the negotiations in the working group on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

42. His Government hoped to give whatever support it could to the preparations for the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should help to stem the recent upsurge in racism, racial discrimination and xenophobia throughout the world.

43. His delegation believed that the Commission should continue to focus on the human rights of migrants and that the mandate of the Special Rapporteur should be strengthened. He also hoped that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would be universally ratified. Moreover, if human rights were to be effectively applied, discrimination against women must be fully addressed.

44. Public policy must be dictated by a vision of sustainable human development if economic, social and cultural rights were to be realized. Governments must be democratic and based on the rule of law if public policies were to be directed to the reduction of poverty and the promotion of such rights as health and education. His Government had therefore noted with satisfaction the recommendations made in the joint report by the Special Rapporteur on the effects of foreign debt and the independent expert on structural adjustment policies (E/CN.4/2000/51). Special consideration must be given to the foreign debt of countries coping with humanitarian disasters. Schemes such as the Bolsa Escola scholarship programme in Brazil were extremely interesting and his Government was considering the introduction of a similar programme.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF THE DEMOCRATIC REPUBLIC OF THE CONGO

45. Mr. SHE OKITUNDU (Democratic Republic of the Congo) said that his Government's principal aim was to restore the dignity of the Congolese people and install a State governed by the rule of law. In view of the institutional disorder inherited from the previous regime, it had been necessary to take certain steps, such as suspending the activities of political parties - of which there had been 350, in accordance with article 4 of the International Covenant on Civil and Political Rights.

46. The Government's aims had, however, been frustrated by the war of aggression waged by Rwanda, Burundi and Uganda, which had for almost two years occupied a large area in the east and north of the country, with the avowed intent not only of destabilizing the Kinshasa Government but also of plundering the country's mineral and natural resources for the aggrandizement of some ruling groups in the aggressor States. They also intended to clear some Congolese territory of its population and resettle it with Tutsis.

47. The aggression had been denounced on many occasions, most notably by the Central African States and the Security Council, whose resolution 1234 (1999) of 9 April 1999 called for the withdrawal of uninvited troops. It was gratifying to note that the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo had reconsidered his views and recognized the conflict as being of an international nature.

48. The war of aggression inevitably affected the human rights situation, since it lay at the root of all other human rights violations. His Ministry had compiled an inventory in four

volumes of all the human rights violations perpetrated in the east of the country by Rwanda, Burundi and Uganda. OHCHR had been apprised of the contents on several occasions. Some of the most horrifying acts included the burial alive of 15 women in Muenga in November 1999 and the battle between the Ugandan and Rwandan armies on Congolese territory at Kisangani over the control of mineral wealth, in which over 300 Congolese civilians had died. In that context he recalled the inter-ethnic confrontations between the Hema and the Lendu, two Congolese peoples, backed by the Ugandan forces, which had left 5,000 dead and 10,000 wounded, all Congolese. The international community, including some great Powers which played a special role in the world's affairs, had, while trumpeting the universality of human rights, remained silent about the situation in his country.

49. Despite the war, his Government was constantly striving to promote and protect the human rights of its people and foreigners in its territory. To that end, it had adopted a National Plan of Action in December 1999, in the preparation of which OHCHR had given assistance. It had also issued guidelines on the demobilization and reintegration of child soldiers, following an African forum, supported by the United Nations Children's Fund (UNICEF), held in December 1999. He asked for help from the international community for the implementation of the two instruments.

50. Mindful of its international commitments, his Government and people had continued to protect thousands of ethnic Tutsis made vulnerable by the war. Over 2,000 had freely left the Democratic Republic of the Congo, either for one of the three aggressor countries or for the United States of America. The Government had acted without requiring reciprocity, although it had been asserted that many Congolese had been deported to Rwanda, Burundi and Uganda since the start of hostilities. The fate of those compatriots was a constant matter of concern for his Government. It had always been open in all that concerned the promotion and protection of human rights, as the latest two visits by the Special Rapporteur and visits by Amnesty International and other NGOs demonstrated.

51. Several accusations have been levelled against his country for the absence of democracy, arbitrary arrests, applying the death penalty and for the fact that the Military Court was not in keeping with its commitments. Most of those violations were closely linked with the state of war. Over 80 per cent of cases of so-called arbitrary arrest were aimed at preventing treason or collusion with the enemy. More than 80 per cent of those sentenced to death and actually executed were soldiers, prosecuted for actions in the field.

52. His Government was, nevertheless, conscious of its duty to preserve the inviolable nucleus of human rights. Unequivocal and substantial support from the United Nations system would be required to achieve that objective. As for the lack of democracy, he recalled that the new Government had given itself two years to clear up the national political scene. That timetable had not been much delayed in comparison with the many years of transition in other States of the region.

53. To justify their incursion into the country, the Rwandans had cited the presence on Congolese territory, of Interahamwe guilty of genocide, the need to protect ethnic Tutsis in the Congo and the need to secure their borders. Those arguments did not hold water. The 1994

genocide in Rwanda had been a humanitarian disaster meriting compassion; but it was a barbarous action perpetrated by Rwandans against other Rwandans, with the complicity of the international community. The Congolese people had had nothing to do with it, although they had borne the brunt of 1.5 million Rwandan refugees. The Tutsi extremists in power were unfortunately using the genocide as a way of attracting international sympathy and thus justifying their own aggression. His country was a party to the Convention on the Prevention and Punishment of the Crime of Genocide and would not, in any case, aid and abet any person, whatever his origin, who was prosecuted for genocide. The many Hutus currently living in his country, like the many Tutsis who had lived there for decades, were not necessarily guilty of genocide. They, too, deserved protection and assistance. It was, moreover, strange that, after decades of mutual massacres between Tutsi and Hutu, some groups claimed to discern a potential genocide of Tutsis in Congolese territory. The international community should not fall into the trap laid by the Rwandans, who were trading on the 1994 genocide.

54. He called on the Commission to issue a formal condemnation of the presence of uninvited foreign armed troops on Congolese territory and demand their withdrawal; to reactivate the joint mission to investigate all massacres carried out in the Democratic Republic of the Congo since 1996; to condemn the plundering of the country's resources and environment, leading to the illegal export of the country's mineral wealth; and to provide real assistance for the 1 million or more people displaced by the war.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (E/CN.4/2000/3 and Add.2-3, 4 and Add.1-2, 9 and Add.1-4, 54-55, 56 and Add.1-2, 57-59, 60 and Add.1, 61/Add.1 and 2, 62, 63 and Add.2-4, 64 and Add.1, 115, 125, 126, 132, 133 and 135; E/CN.4/2000/NGO/2, 6, 9, 10, 20, 27, 29, 33, 41, 45, 50, 60, 62-64, 78-81, 91, 92, 95, 104-106, 111, 118, 126, 129-135, 138, 141 and 143; E/CN.4/Sub.2/1999/27; A/54/177 and Corr.1)

55. Mr. TOSEVESKI (Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing the Working Group's twentieth annual report (E/CN.4/2000/64), said that the Working Group had abided by the 32-page limit, albeit with

difficulty. Of the 49,070 cases of disappearance in the Working Group's books, 46,054 were being kept under active consideration. In that connection, it was to be regretted that the Governments of 33 of the 69 countries with unclarified cases had failed to respond to communications. The Commission should urge them to improve their process of clarification of cases, to develop comprehensive forensic programmes and to compensate the families of deceased victims. Although many of the unresolved cases dated back to the 1970s or early 1980s, that did not affect the right of relatives to know the exact fate and whereabouts of victims.

56. Progress in the domestic implementation of the Declaration on the Protection of All Persons from Enforced Disappearance remained extremely slow, with only very few countries - such as Guatemala, Mexico and Peru - specifically criminalizing enforced disappearance in domestic legislation.

57. The Working Group appreciated the cooperation of concerned Governments. Invitations had been received from the Governments of Colombia and the Islamic Republic of Iran to visit those countries, although no dates had as yet been established. The Government of Sri Lanka had also invited the Working Group to pay a third visit to the country in October 1999 (E/CN.4/2000/64/Add.1). The Commission should support and encourage such official visits, since they were useful not only to the Working Group but also to the Governments concerned.

58. The Working Group much regretted the dramatic reduction in its secretariat in recent years, particularly in view of the exponential increase in its workload. For instance, a Government had recently submitted information concerning more than 4,000 cases and an adequate number of staff members were needed if the information was to be entered into the database, transmitted to relatives and considered by the Group.

59. On the occasion of the Working Group's twentieth anniversary, he wished to extend particular thanks to the Government of France for being the first to raise the issue of enforced disappearance within the Commission.

60. Sir Nigel RODLEY (Special Rapporteur on the question of torture), introducing his report (E/CN.4/2000/9 and Add.1-4), said that, in 1998, he had visited Cameroon, Romania, Kenya, and East Timor. His reports on those visits were contained in documents E/CN.4/2000/9/Add.2-4 and E/CN.4/2000/115 respectively. Agreement had yet to be reached with the Government of China on the modalities and duration of his planned visit in 2000. Since producing his report he had also received an invitation from the Government of Azerbaijan, but his requests to visit Algeria, Bahrain, Brazil, Egypt, India, Indonesia and Tunisia had yet to result in official invitations. The Governments of Equatorial Guinea and Togo had issued unsolicited invitations in response to routine requests for information.

61. Replies to allegations and urgent appeals contained in his report (E/CN.4/2000/9) had since been received from a number of States, namely, Algeria, Bangladesh, Belarus, Brazil, Egypt, Ethiopia, Germany, India, Indonesia, the Islamic Republic of Iran, Peru,

the Russian Federation and Turkey, and from the Palestinian Authority. Document E/CN.4/2000/9/Add.1 contained information received in 1998 from the Governments of Chile, Colombia, Mexico and Venezuela, which had not been processed that year because of resource limitations.

62. During his visit to Cameroon (E/CN.4/2000/9/Add.2), he had met numerous people who showed signs of what could only have been recently inflicted physical torture and had concluded that law-enforcement officials resorted to torture on a widespread and systematic basis and that torture was condoned, if not encouraged, in detention centres. He was particularly concerned that members of an NGO that had provided him with information on an "anti-gang" unit had allegedly been harassed by members of that unit only a few days after his visit. It was to be hoped that the recent ministerial reshuffle in Cameroon would result in substantial improvement in the treatment of persons deprived of their freedom in that country.

63. In Romania (E/CN.4/2000/9/Add.3), sporadic cases of police abuse persisted, as had been acknowledged by the Government. The investigation system was ineffective and there was an urgent need to address gross overcrowding in the prison system.

64. In Kenya (E/CN.4/2000/9/Add.4), a number of officials had acknowledged that there was physically rough treatment of suspects by the police, which routinely included sustained beatings on all parts of the body. It was clear that the practice was widespread and systematic, and that a general sense of impunity prevailed.

65. High-profile cases of torture in the world tended to involve people engaged in political activities or connected with organizations that had international contacts. However, it was clear that the overwhelming majority of persons subjected to ill-treatment and torture were ordinary common criminal suspects from the lowest strata of society. Typically, such persons were unable to afford good lawyers, and their families did not have the connections to be taken seriously by law-enforcement personnel. Such persons also tended to be ignorant of their rights - including the right not to be tortured. As long as the international community failed to address the problem of the poor, the marginalized and the vulnerable, it contributed, both indirectly and directly, to a vicious circle of brutalization that undermined shared aspirations for a life of dignity and respect for all.

66. Mr. NGOUBEYOU (Observer for Cameroon) said that there was no deliberate policy of using torture in his country and that there was a commitment on the part of his Government to prevent the practice and punish those who engaged in it. There had been a law against torture since 1997, and prosecutions had taken place even of senior police officials and soldiers, with heavy sentences being handed down. The prevention and eradication of torture were constant concerns of the Government, which was promoting human rights education and encouraging a human rights culture in the police, army and prison service.

67. The National Committee on Human Rights and Freedoms investigated alleged incidents, and made recommendations and observations to the Government. There were, unfortunately, occasional cases of torture, but it did not represent a standard practice and was not aimed at a particular category of people, as the Special Rapporteur had concluded. Despite the preventive

measures that were taken, mistakes were inevitable due to human folly; the accusation that Cameroon practised torture in a "systematic" manner was unfounded, unjustified and excessive.

68. On the subject of the special units of the gendarmerie, it should be noted that there was a lack of security in the north of the country caused by the activities of bandit gangs. The special units had been set up to protect the population; their purpose was not to torture individuals. However, unfortunate incidents had occurred, usually during attacks by armed highway robbers, and investigations were being carried out.

69. As for the conditions of detention in prisons, Cameroon had had a prisons policy since 1992, and had created a system of inspections in 1995. A decree by the Minister of Territorial Administration specified punishments for the ill-treatment of detainees, without prejudice to subsequent legal action. Objectively, there was no reason to doubt his Government's determination to deal with the matter, although there had regrettably been a number of reported cases in detention centres resulting from human folly and prison overcrowding. Prison staff henceforth received human rights education and training.

70. In July 1999, Cameroon had signed a cooperative convention on the promotion of human rights, one part of which dealt with the improvement of conditions of detention. In order to find a lasting solution to the problem, Cameroon would like to be able to count on the support of the international community.

71. In the circumstances, it seemed to be an exaggeration to arrive at the conclusion, as the Special Rapporteur had done, that torture was practised systematically, that impunity was general in places of detention, and that there was complicity on the part of the authorities. Nevertheless, his Government was ready to follow up his recommendations and observations and to consider constructive proposals for reform and improvement in all the areas dealt with in his report, although it regretted that the report did not give sufficient attention to the considerable progress the country had made in protecting and promoting human rights.

72. Mr. AZAD RANA (Observer for Kenya) thanked the Special Rapporteur for his well-balanced and comprehensive report and assured him that his Government was very keen to improve its human rights situation, particularly as it related to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Kenya was also dedicated to promoting awareness and understanding of fundamental human rights within the law-enforcement and judicial systems, as well as within the entire system of government. A bill would be tabled during the current session of parliament to transform the Standing Committee on Human Rights into a national human rights commission with autonomy, resources and powers to conduct investigations into human rights abuses, instigate criminal proceedings and enhance training programmes. His Government had embarked upon a number of institutional and structural reforms to promote and consolidate democracy, and the judiciary was undergoing radical structural change to streamline its independence and effectiveness.

73. His Government had cooperated fully with the Special Rapporteur, regarding his mission as complementing its own efforts to reform law enforcement and the administration of justice. The meetings he had held in Kenya were indicative of the Government's commitment to improving the situation of human rights in the country.

74. Kenya's key development priorities were based on the need to alleviate poverty and its attendant problems, but it had limited resources and had been unable to devote much to improving its law-enforcement system. The living conditions of the police and the prison staff were seriously inadequate, and public service pay levels in general were a major source of concern.

75. Torture was prohibited under Kenyan law and the Government did not allow or condone its use by law-enforcement officers. Indeed, it had taken steps to bring to the attention of all its agents the legal prohibitions against the practice and use of torture on suspects, persons in pre-trial detention, and prisoners. Kenyan courts excluded confessions and admissions obtained as a result of torture or the threat thereof. Kenyan law provided civil remedies for persons able to prove that they had been subjected to torture by law-enforcement officers. Very few such civil cases had yet been heard, but once the legal and administrative reforms were in place the victims of torture would be able to seek and obtain redress more easily.

76. His Government regretted that, in the course of their duties, some law-enforcement officers had at times used inhuman investigative measures, employing degrees of force on those in their custody that amounted to torture and ill-treatment as defined in international standards. To address the problem, the Government had included a course on human rights in law-enforcement training institutions. Despite the severe economic constraints under which Kenya had long been operating, the Government had endeavoured to secure acceptable and humane conditions in police cells and prisons. Moreover, to reduce prison overcrowding, it had embarked on a penal reform aimed at prescribing non-custodial sentences for petty offenders.

77. His Government had taken careful note of the Special Rapporteur's recommendations, which were a good foundation upon which to address cases of alleged torture and proven instances of torture. They would be taken into account in its efforts to eradicate torture from Kenya's law-enforcement and judicial system.

78. Mr. TOSEVSKI (United Nations Voluntary Fund for Victims of Torture) said that some 180 new requests had been received during the year to finance humanitarian, economic, social, legal, medical and psychological assistance to victims of torture and members of their families, amounting to a total of some US$ 10 million. The figure for 1999 had been US$ 6.8 million. Contributions - from 23 Governments and two individuals - amounted to some US$ 2 million, compared with US$ 5.8 million in 1999. An additional US$ 8 million was therefore needed to satisfy all the requests. In the resolution adopted on torture at the fifty-fifth session (1999/32), the Commission appealed to all Governments, organizations and individuals to contribute annually to the Fund, if possible with a substantial increase in the size of those contributions. The Commission had also taken note of the request of the Fund's Board of Trustees that contributions be paid before its annual session in May.

79. Pledges had so far been made for about US$ 5.6 million - by the Governments of Algeria, Brazil, Chile, France, the Philippines, Tunisia, Turkey, the United Kingdom and the United States of America - and those pledges and additional contributions had to be paid

before 30 April 2000. At its annual session from 15 to 26 May 2000, the Board of Trustees would be able to consider only contributions paid and duly registered by the United Nations Treasurer, not pledges. Any contribution paid after 30 April 2000 could be taken into consideration only in 2001. He thus encouraged donors which had pledged a contribution to pay it before the end of the Commission's current session and also invited new donors to contribute. An information meeting between interested donors and the Board of Trustees would be held on 26 May 2000.

80. Mr. JOINET (Vice-Chairman of the Working Group on Arbitrary Detention), introducing the Working Group's report (E/CN.4/2000/4 and Add.1 and 2), thanked the Governments of Costa Rica, Saudi Arabia and Turkey for their replies to urgent appeals received after the Working Group's report had been submitted. The number of urgent appeals transmitted by the Working Group had increased in the past year, and critical comments from Governments had fallen into two broad categories: that the appeals did not seem to them to be sufficiently "urgent" and that the appeals needed to be better coordinated. The Working Group had placed the issue on its agenda for its next session, to be held from 15 to 19 May 2000, and would make its views known at the next annual meeting of special rapporteurs to be held from 5 to 9 June 2000.

81. The number of opinions adopted by the Working Group had also increased. Some were of thematic interest. One (No. 9/1999), concerning pollution of the Black Sea by a defective Russian nuclear submarine, had led the Working Group to establish a new criterion according to which "damage to or protection of the environment [is] an issue that [knows] no boundaries. Consequently, it should be possible freely to engage in ecological criticism: this forms part of the right to freedom of expression 'regardless of borders'". The second thematic opinion (No. 21/1999) concerned the question of whether the right to criticize in a country had to be expressed individually only or whether it could be expressed collectively by an association or a political party. The third thematic opinion (No. 19/1999) concerned the question of whether the dissemination of documentation concerning human rights violations beyond the frontiers of the State concerned constituted a violation of that State's secrecy.

82. Another, a legal opinion, concerned the situation in the Al-Khiam prison in southern Lebanon where there were a number of alleged cases of arbitrary detention. The Government of Israel had said that the matter did not concern it and that the Working Group should approach the so-called "South Lebanon Army (SLA)". The Working Group took the view that it was justified in addressing the communications and urgent appeals concerning detention at Al-Khiam to the Government of Israel, inasmuch as it had been sufficiently demonstrated that the SLA was acting on behalf of the Israeli Defence Forces.

83. There had been one in situ visit, to Indonesia (E/CN.4/2000/4/Add.2), a country which had achieved some very positive developments despite difficulties; the Working Group congratulated the Government of Indonesia on having freed all the political prisoners on its list. It also welcomed the recent law establishing an Indonesian national human rights commission. Following difficult negotiations, the Government of Bahrain had formally invited the Working Group to undertake a mission to that country in 2001.

84. Turning to the Working Group's procedure for following up visits, he said that it was grateful for the replies received from the Governments of Nepal, Bhutan and China. There had so far been no replies from the Government of Viet Nam.

85. In accordance with Commission resolution 1997/50, the Working Group had devoted particular attention to the situation of immigrants and asylum-seekers, and thanked the Governments of the United Kingdom and Romania for their cooperation in two visits carried out during the year.

The meeting rose at 1.05 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 28th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 April 2000, at 3 p.m.

Chairman	Mr. SIMKHADA	(Nepal)
later	Mr. IBRAHIM	(Sudan)

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The meeting was called to order at 3.10 p.m.

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 4) (continued)

Statement by Mrs. Mary Robinson, United Nations High Commissioner for Human Rights

1. Mrs. ROBINSON (High Commissioner for Human Rights) reported to the Commission on Human Rights on her mission to the north Caucasus region of the Russian Federation between 31 March and 4 April. She had visited Ingushetia, Dagestan and Chechnya and had had a series of meetings in Moscow.

2. In seeking the visit, she had had in mind her mandate as High Commissioner for Human Rights, namely to protect all rights, prevent human rights violations throughout the world and engage in a dialogue with Governments, bearing in mind the universality of international human rights and humanitarian law. She had also had in mind the Commission's calls to the Russian authorities in 1995 and 1996, a period when grave violations of human rights had occurred in Chechnya and, in particular, the Chairman's statement of 24 April 1996 drawing the attention of the Russian authorities to a number of issues including the disproportionate use of force by the armed forces of the Russian Federation, the suffering that was being inflicted on the civilian population and the destruction of Chechen towns and villages. At that time, the Commission had requested her predecessor as High Commissioner for Human Rights to continue consultations with the Government of the Russian Federation, in order to secure the implementation of the objectives of the international community.

3. She said she had also been mindful of the position taken by the Russian authorities and in particular their desire to preserve the territorial integrity of the Russian Federation and eliminate a stronghold of international terrorism from Chechnya, within the limits of international law and taking all possible measures to minimize civilian casualties. The Russian authorities had mentioned the establishment of the Office of the Special Representative of the President of the Russian Federation on Protecting Human Rights and Freedoms in Chechnya, the involvement of experts from the Council of Europe and the visits to Chechnya by international delegations and large numbers of foreign correspondents.

4. Before travelling, she had given the Russian Government a list of some of the most serious allegations of human rights abuses in Chechnya, including the concerns expressed by experts of the Commission. She had made a number of statements about the situation in Chechnya, both individually and jointly with the Secretary-General, the High Commissioner on National Minorities of OSCE and the Secretary-General of the Council of Europe.

5. She said that, on her arrival in Moscow on 31 March, she had held meetings with international humanitarian organizations active in the north Caucasus, with Russian NGOs such as the Organization of Soldiers' Mothers, and with international NGOs. She had also had discussions with the Russian Ombudsman, Mr. Oleg Mironov, and with the Special Representative of the President, Mr. Vladimir Kalamanov. She expressed her appreciation for Mr. Mironov's help and that of the federal authorities and the Governments of Ingushetia and Dagestan.

6. On 1 April she had travelled to Nazran, the capital of Ingushetia. There she had visited the Sleptzovskaya camp, where thousands of people were living in tents and railway carriages. One carriage had housed 45 people for six months. The displaced persons, chiefly women, had approached her with appeals for help and had told her of their anxiety at the fate of missing or detained relatives. She had also met President Aushev of Ingushetia, who had described the efforts his Government was making to cope with the flood of internally displaced persons, estimated at 213,000 in total. During her visit, as well as the allegations of mass killings, summary executions, rape, torture and pillage, she had heard detailed first-hand testimony from witnesses of alleged gross violations of human rights in Chechnya; she regarded those accounts as extremely significant, since they bore out the seriousness of the alleged human rights violations by the Russian military, militia and Ministry of the Interior forces in Chechnya. She cited the case of three women, only one of whom had survived, who had been fired at by regular army troops as they returned to their homes, and whose bodies the troops had burnt after pulling off their jewellery. Another woman had said that she had been in Novi Aldi when the OMON special forces had carried out mass killings, including children and elderly people. Lastly, a resident of Grozny, who had been a professor of linguistics at the State University in Chechnya, had described how, on the road out of Grozny, she and her family had found themselves in a queue of several hundred cars that had been bombed by wave after wave of Russian planes, leaving many dead and dismembered bodies. That had happened near the village of Shaami-Yurt. Other witnesses had given detailed accounts of killings at Gekhi-Chu and Tangi-Chu, of torture and ill-treatment of detainees at Urus Martan and near Achkoi Martan, and of killings at Katar-Yurt.

7. She had visited Chechnya on 2 April. It had not been possible to visit a number of the places that she had asked to see, the reasons given being the bad weather and lack of security. She had also asked to visit detention centres other than Chernokozovo, but in the event had visited only a detention centre housing two women being held on charges of looting. In a hospital and the small markets that were starting up, she had managed to speak to some of the remaining residents of Grozny, chiefly women and the elderly. They had complained bitterly of the lack of food and their miserable living conditions. They had also been anxious about relatives who had been detained. Fighters had been criticized for their disregard for the welfare of the civilian population. A point made by many Chechen women was that not all Chechens were "bandits". The scale of the destruction in Grozny was shocking. The sight of a city that had once been famous in the Caucasus region reduced to rubble symbolized the devastating effect of the conflict.

8. She said she had flown from Grozny to Makhachkala, the capital of Dagestan, and met President Magamedov and representatives of his Government. She had also met representatives of women's groups who had denounced the actions of Chechen fighters in strong terms, as the President himself had done. In their view, the international community had shown insufficient interest in the grave violations committed against the people of Dagestan during the incursions by Chechen rebels, which had caused significant loss of life and the displacement of many villagers.

9. In Moscow, she had been received by a number of federal Ministers, including the Minister for Foreign Affairs, Mr. Igor Ivanov, and the deputy commander-in-chief of the armed

forces, General Manilov, who had explained the federal Government's position. It considered that insufficient attention was being paid to the human rights violations committed by Chechen fighters, that violations had indeed been committed by the military, but that they were not systematic and had been duly punished, that the Russian Federation would not be told what to do by outsiders, that the media and international community lacked objectivity; and, lastly, that finishing the war was the top priority for the moment.

10. She said that her visit and the first-hand accounts given to her and confirmed by others were evidence of serious human rights violations. They raised a number of issues that the Commission might wish to consider.

11. In the first place, to deny that the Chechen people like the people of Dagestan, Ingushetia and the Russian Federation, had rights that should be defended or that violations of those rights should be condemned, would be to show selectivity. Secondly, there was the issue of proportionality. A fundamental principle of conflict situations was that the response must be proportionate to the threat and that every care must be taken to avoid civilian casualties. She had not hesitated to raise the issue with the Commission the year before in regard to NATO's bombing of the former Yugoslavia. Neither did she hesitate now to call on the Russian Government to refrain from using heavy weaponry in areas with civilian residents. Lastly, even if the fighting ended soon with a peaceful negotiated settlement, daunting challenges lay ahead in restoring normal economic and social life in the region. The Russian authorities appreciated the humanitarian assistance from the international community, but more was urgently needed and she intended to raise that issue with the Secretary-General and the heads of the United Nations agencies in Rome. The humanitarian agencies' greatest concern was, understandably, the security situation.

12. From the Commission's perspective, the most pressing and immediate issue concerned the adequacy and credibility of the response by the Russian authorities to the scale of allegations of human rights violations in the region. Inquiries had been initiated and nine criminal prosecutions had been opened for offences against civilians. But, bearing in mind the scale of the violations, she believed a different level of response was needed. For that reason, in her discussions in Moscow with the Minister for Foreign Affairs and other members of the Government, she had raised the possibility of establishing a broad-based, independent national commission of inquiry. She fully recognized the complexity of the situation, in particular the seriousness of the crimes committed by the Chechen rebels in Dagestan and the need to put a stop to terrorist activities, but she believed that the primary responsibility for addressing human rights violations rested with the Russian authorities and she had offered to send them models of national commissions of inquiry in case they decided to establish one.

13. The scale of the serious allegations of gross human rights violations warranted international attention and concern. That was particularly true in the light of eyewitness accounts of mass killings, summary executions, rape and pillage, together with a disproportionate use of heavy armaments in populated areas. Recently, in a similar situation, the Commission had supported the establishment of both a national commission of inquiry and an international commission of inquiry.

14. Lastly, she said that United Nations human rights mechanisms, including the Commission, could play an important role in the current context. Visits by special rapporteurs or representatives might be considered in order to obtain a better assessment of the facts. In that connection, she understood that the Representative of the Secretary-General on internally displaced persons and the Special Rapporteur on extrajudicial, summary or arbitrary executions had requested the opportunity to visit the region. She hoped that their requests would receive a positive response. It was up to the Commission to consider whether other mechanisms might have a role to play.

15. Lastly, she welcomed the agreement of the Russian authorities to provide access by the International Committee of the Red Cross (ICRC) to places of detention in Chechnya. She supported the seconding of three experts by the Council of Europe to work with the Special Representative of the President, Mr. Kalamanov. Lastly, she was encouraged by steps to enable OSCE to fulfil the mandate of the Assistance Group.

16. She said she had been invited by the Russian Minister for Foreign Affairs, Mr. Ivanov, to return to Moscow, Chechnya and the north Caucasus in two or three months' time in order to assess the situation.

17. The CHAIRMAN suggested that, with the exception of the Russian delegation, those delegations wishing to take the floor on the subject of the information the High Commissioner for Human Rights had just provided should delay their statements until the following week. If there was no objection, he would take it that the Commission accepted that proposal.

18. It was so decided.

19. Mr. SIDOROV (Russian Federation) said he had listened with interest to Mrs. Robinson's statement. Russia had never concealed from anyone the true facts in the region she had visited. Mrs. Robinson herself knew that to be true. Unfortunately, her statement had contained assertions that were not borne out by the facts. Those assertions were based on allegations concocted by the terrorists.

20. Russia had been compelled to launch an anti-terrorist operation in Chechnya because of its obligation to ensure that individual rights were respected in that region. For years, the fundamental rights of the Chechen people had been systematically violated by Aslan Mashkhadov's regime. Mrs. Robinson herself had obtained testimony concerning such violations - rape, pillage, hostage-taking, etc. - on the part of the Chechens. He invited the Chairman to arrange a video session that would show the atrocities they had committed.

21. Russia had never prevented anyone from visiting the Caucasus. Not a week passed without an international organization asking to visit the region and no such requests were ever refused. More than 70 foreign journalists were accredited in the region. Russia was well aware of the importance of human rights and had never questioned its obligations in that area. It was for that very reason that it had wished to put a stop to terrorist activities in Chechnya, activities that were spreading even beyond the borders of the Russian Federation. The Security Council itself had acknowledged that foreign mercenaries were fighting alongside the Chechen rebels.

22. More than 70 per cent of Russians had participated in the recent Russian elections, which demonstrated that the majority of the population wished Chechnya to remain within the Russian Federation.

23. Lastly, he said that there could be no doubt about the willingness of the Russian authorities to cooperate with international agencies. That was shown by the agreements concluded with the Council of Europe for experts to be sent to the Caucasus region, and with ICRC. Russia would always be open to constructive dialogue, but would reject any interference in what it considered to be its internal affairs.

CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2000/3 and Add.2 and 3, 4 and Add.1 and 2, 9 and Add.1-3, 54, 55, 56 and Add.1 and 2, 57-59, 60 and Add.1, 61/Add.1 and 2, 62, 63 and Add.2-4, 64 and Add.1, 115, 125, 126, 132, 133, 135; E/CN.4/2000/NGO/2, 6, 9, 10, 20, 27, 29, 33, 41, 45, 50, 60, 62-64, 78-81, 91, 92, 95, 104-106, 111, 118, 126, 129-135, 138, 141, 143; E/CN.4/Sub.2/1999/27; A/54/177 and Corr.1)

24. Mr. BASSIOUNI (Independent expert), introducing his report (E/CN.4/2000/62), prepared in accordance with Commission resolution 1999/33, on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms, said that, in order to prepare a revised version of the draft guidelines and principles on the subject, he had first assessed the previous drafts of the principles and guidelines elaborated by Mr. van Boven and compared them with other United Nations norms and standards concerning victim redress, specifically the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, pertinent provisions of the Rome Statute of the International Criminal Court and other relevant United Nations norms and standards. He had also benefited from the foundation provided by prior reports, the comments of several Governments on the earlier report, and those of various United Nations bodies, intergovernmental organizations, ICRC and NGOs.

25. He had held two consultative meetings in Geneva for all interested Governments, intergovernmental organizations and NGOs, on 23 November 1998 and 24 May 1999 respectively. On the basis of these consultations and prior comments, he had circulated a first draft of his revision of the principles and guidelines on 1 June 1999 to all Governments, intergovernmental organizations and NGOs for their comments, and a second revised draft on 1 November 1999. He had received comments on these drafts from a number of States, and from ICRC, NGOs and several experts. He expressed his gratitude in particular to ICRC and the International Commission of Jurists for their learned comments.

26. In preparing the basic guidelines and principles, he had drawn in part on the standards currently in use in the world's major legal systems and in part on extant norms of international law. The text of the guidelines and principles had been drafted in such a way as to make a clear distinction between those standards that were already in force in international law and those which were not yet fully established. Specifically, existing international obligations were expressed in the present and rendered in English by the word "shall", while international legal obligations that were still being developed were expressed in the conditional and rendered in English by the word "should".

27. Section I of the text was entitled "Obligation to respect, ensure respect for and enforce international human rights and humanitarian law". The expression "respect and ensure respect for" was taken from article 1 of the fourth Geneva Convention, which had been ratified by all States. Section I dealt exclusively with the standards of international humanitarian and human rights law that were already in force. Section II, which was entitled "Scope of the obligation", contained a series of obligations incumbent on a State to ensure respect for and enforce international humanitarian and human rights law. Section III dealt with violations of international human rights and humanitarian law that constituted crimes under international law. Such violations entailed an obligation on States not only to prosecute the perpetrators but also to facilitate their extradition, which required judicial assistance and other forms of cooperation. Section IV dealt with statutes of limitations. In that regard, a distinction was made between civil and criminal claims. In criminal matters, statutes of limitations should not apply for prosecuting violations of international human rights and humanitarian law norms that constituted crimes under international law. In civil claims, it was recommended that statutes of limitations should not unduly restrict the ability of a victim to pursue a claim against the perpetrator.

28. The remaining sections of the text of the basic principles and guidelines dealt with the definition of a victim, the treatment of victims and the forms of reparation.

29. Mr. HARAGUCHI (Japan), referring to the question of torture, said that torture by any law enforcement officer should be regarded as a most serious crime. That idea was clearly reflected in Japan's Constitution and Penal Code. The previous June, Japan had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was also participating actively in the Working Group on the draft optional protocol to the Convention and contributed to the United Nations Voluntary Fund for Victims of Torture.

30. With regard to the issue of impunity, Japan welcomed the adoption in July 1998 of the Rome Statute of the International Criminal Court. However, international courts were not the only means of combating impunity at the international level. It was important to remember that,

under a number of international human rights instruments, member States had an obligation not only to punish human rights violations on their territory but also, in some cases, to extend their jurisdiction beyond their national borders. Japan urged all Governments to meet their obligations more fully, especially through judicial cooperation.

31. Japan wished to underline the importance of the activities of the special rapporteurs and thematic working groups for the promotion and protection of human rights. Japan had been cooperating fully with them and regretted that some countries showed an unwillingness to do so. No member State should repeatedly refuse to allow special rapporteurs to visit, always on security grounds.

32. Human rights education was of great importance in the area of civil and political rights. In January, the inter-sessional workshop on the subject organized by OHCHR had recognized that human rights education for those involved in the administration of justice should be regarded as one of the priorities for the Asia-Pacific region. Japan emphasized the importance of disseminating information on humanitarian law to police and military personnel and paid tribute to the role played by ICRC in that regard. Japan would continue to support its activities.

33. Ms. BIE (Norway) said that the rule of law was an indispensable element for the protection of human rights and good governance. The special rapporteurs therefore had a very important role to play and made an outstanding contribution to enhancing public knowledge by highlighting situations that were incompatible with the rule of law.

34. The distribution of power and the independence of the judiciary were the two pillars of democracy. Only through a fair and predictable application of the law at all levels by an impartial, independent judge could individuals secure the necessary protection against infringement of their rights by States. At the international level, Norway had in February 2000 become the seventh State to ratify the Rome Statute of the International Criminal Court. Norway urged all States to take the necessary steps to ratify the Statute.

35. International standards on the prevention of torture had to be genuinely implemented. Countries should enact effective legislation to prosecute and punish individuals who committed torture. That was particularly important for the many groups at risk such as minorities, political opponents, journalists and human rights defenders. All allegations of torture or ill-treatment must be investigated promptly, impartially and thoroughly. Countries should therefore cooperate fully with all international human rights mechanisms. Norway, for example, had been criticized on several points, notably the use of pre-trial detention, by the Committee against Torture and the European Committee for the Prevention of Torture. It had taken note of the criticism and implemented several corrective measures. It urged States to support the Working Group on the draft optional protocol to the Convention against Torture.

36. Freedom of religion or belief was a basic human right. It rightly occupied a central place in the International Covenant on Civil and Political Rights. Norway strongly endorsed the Special Rapporteur's unique role in promoting freedom of religion and believed that sufficient resources should be made available to him to enable him to discharge his mandate. It also believed that it would make sense to change his title to "Special Rapporteur on freedom of religion or belief".

37. Freedom of expression and opinion, including freedom of the press and the media, were basic prerequisites for democracy. Freedom of expression was currently a topic of debate in Norway, in the context of a government report proposing amendments to article 100 of the Norwegian Constitution.

38. Lastly, Norway expressed its great appreciation for the work of NGOs investigating threats to freedom of expression.

39. Ms. PEREZ DUARTE (Mexico) said it was unfortunate that special rapporteurs' reports were frequently distributed very late, as had happened with the report of the Special Rapporteur on Torture. It was also unacceptable that that report did not contain replies from Governments. The Government of Mexico had taken note of the "Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment", contained in the report submitted to the General Assembly by the Special Rapporteur on Torture (A/54/426); they should be given careful consideration.

40. The Mexican Government was giving high priority to efforts to combat torture. Based on the work of the National Commission on Human Rights, it was organizing its action around three major topics: promotion of a human rights culture, consolidation of the legal system and combating impunity.

41. It was making special efforts to further raise the awareness of officials responsible for the administration of justice and for enforcing the law in the area of human rights. Training courses had been organized and more than 4,000 officials had taken part in a workshop on ways of combating torture, for example. Since the enactment in 1991 of federal legislation on the prevention and punishment of torture, state legislatures were reviewing their own rules. The federal and state prosecutors had established a national conference of public prosecutors' offices. At their eighth meeting, held in November 1999, the prosecutors had declared that they were in favour of Mexico signing the second optional protocol to the International Covenant on Civil and Political Rights and of recognizing the competence of the Committee against Torture to receive individual complaints. The problem of torture remained a cause for concern to the Mexican Government. Mexico urged the members of the Working Group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to abandon their maximalist positions and instead seek effective and realistic means of reinforcing the mechanisms for international cooperation in that area.

42. The Mexican Government was also making efforts to combat impunity and corruption. It had launched a crusade against crime and criminality, which had led to a considerable increase in the resources devoted to public safety and a reinforcement of measures to combat corruption. In Chiapas and Guerrero States, offices of the Ministry of National Defence received complaints from the civil population. Article 225 of the Penal Code had been amended in order to punish abuses by judicial officials. The federal Act on public-sector budgets, accounting and expenditure had also been amended to make the federal Government responsible for making reparation for harm or damage, including moral damage, caused by criminal acts committed by officials. National legislation to combat organized crime had been strengthened.

43. Persons in police custody in Mexico were not held incommunicado, as some had claimed. That practice was prohibited under the Constitution. All detainees had the right to speak to a lawyer or person of confidence. Confessions had no probative value in criminal proceedings. The right to a defence was completely in line with article 14 of the International Covenant on Civil and Political Rights. In that regard, the many errors committed in the past had been corrected and the Mexican Government's efforts to ensure the enjoyment of civil and political rights had yielded tangible results.

44. Mr. NDIAYE (Senegal) recalled that Senegal had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 15 August 1986, before it had even entered into force. Under article 6 of the Constitution of Senegal, the individual was inviolable, the State had a duty to respect and protect the individual and everyone had the right to life and physical integrity. The Penal Code contained provisions preventing acts of torture or severely punishing their perpetrators.

45. Senegal's legislation also guaranteed the respect of individual freedoms and the rights of defence, in particular during pre-trial detention and preliminary inquiries. Pre-trial detention was supervised by the Government Prosecutor. The record of the hearing and the custody register should indicate the reasons for the detention and the duration of the inquiries. The detainee was also allowed to speak to a lawyer during the period of detention and request a medical examination. The Government Prosecutor was obliged to authorize such an examination, whether it was requested by the detainee himself, his lawyer or a third party. The provisions of Senegal's legislation therefore went beyond the requirements of the Convention, making Senegal without any doubt a State subject to the rule of law.

46. Senegal's insistence on respect for human rights and its continual strengthening of the rule of law had indeed been recognized by the Committee against Torture in the conclusions and recommendations it had adopted on 1 May 1996, following its consideration of Senegal's second periodic report.

47. Nearly all the commitments undertaken by the Senegalese delegation after the consideration of its second report had been honoured. National human rights training programmes had been established for the gendarmerie, the police, the army and the medical corps. The Government of Senegal had also made a declaration under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recognizing the competence of the Committee against Torture.

48. Lastly, he welcomed the fact that increasing numbers of States were acceding to the Convention, with the total reaching 118 in 1999.

49. Mr. ATEAGA (Chile) said, on the issue of torture, that Chile was aware of the need to improve the situation of persons deprived of their liberty who were at special risk of ill-treatment. Chile was therefore in favour of the drafting of an optional protocol to the Convention against Torture.

50. As the Special Rapporteur, Mr. Nigel Rodley, had noted in the report he had submitted to the fifty-second session of the Commission, following his visit to Chile, the restoration of

democracy had brought the systematic practice of torture to an end. A great many of the recommendations made by the Special Rapporteur in his report had been implemented. The two successive democratic Governments had taken specific measures, involving, in particular, reform of Chile's legislation in order to prevent and punish the practice of torture. Efforts were currently being made to modify the Penal Code and reform the Code of Penal Procedure with the same aim. Act No. 19567 had entered into force on 1 July 1998, defining torture as an offence subject to very severe punishment, and introducing important preventive measures to protect prisoners. The administration of justice had been modernized, including with regard to the judicial police. Police college curricula had been overhauled and internal control mechanisms established, in order to emphasize ethics and respect for human rights.

51. Lastly, under decree No. 1562 of 22 September 1999, Chile had withdrawn its reservation to article 30, paragraph 1, of the Convention against Torture. In general, the Chilean Government's cooperative attitude had been recognized and welcomed by the Special Rapporteur.

52. Mr. MAXIM (Romania) said that, for the first time in the history of humanity, the majority of peoples had started along the road to democracy, believing themselves to be better prepared in that way to combat poverty, meet the challenges of globalization, develop their economies, protect human rights, strengthen social cohesion and establish peaceful international relations. It was for that reason that notions of democracy were becoming more prominent in multilateral debates, including within the Commission.

53. Romania was one of the countries that had suffered most from the lack of democracy and the consequences of the traumatic episode it had gone through were still being felt. For that reason, Romania, along with other countries in a similar situation, had decided to establish a forum of new or restored democracies. Romania welcomed the Secretary-General's support for the efforts of the Conference of New or Restored Democracies to promote the global process of democratization.

54. Romania fully supported the measures taken by OHCHR to implement Commission resolution 1999/57 entitled "Promotion of the right to democracy" and to promote the right to democracy using the mechanisms at its disposal. Romania also welcomed the launching by OHCHR and UNDP of the Human Rights Strengthening programme (HURIST), designed to help developing countries to integrate human rights concerns into sustainable human development work, ensure good governance and strengthen public institutions.

55. Against that background, therefore, Romania had decided to present the issue of the promotion of democracy in more concrete terms to the Commission at the current session.

56. Mr. AMORIM (Brazil) recalled that, the previous day, the United Nations Secretary-General had invited the Commission to promote transparency and accountability in the management of public affairs with the full participation of all citizens in the decisions of government. As several speakers had pointed out, democracy, for all its imperfections, remained the surest path to the preservation and promotion of human rights, whether civil, political, economic, social or cultural. In that regard, Brazil welcomed the initiative announced by Romania.

57. Democracy was spreading through all regions of the world. Latin America had been going through a peaceful democratic revolution since the 1980s. The Organization of American States (OAS) and Mercosur had adopted mechanisms for the promotion of democracy. In Africa, Senegal had just given an important lesson in democracy through its handover of political power.

58. Free, regular elections were recognized everywhere as essential to democracy. However, there were circumstances in which the electoral process was used to give prominence to essentially undemocratic ideas and practices. Corruption could also corrode democracy. Similarly, genuine democracy could not exist without freedom of expression and assembly or freedom of the press.

59. It was unfortunate that bigotry and racial hatred were also on the rise. Brazil would therefore be submitting a draft resolution highlighting the fundamental incompatibility of xenophobia and racial hatred with democracy. The proposal was not aimed at anyone in particular. No society could yet claim to have eliminated all discrimination based on colour or national or ethnic origin.

60. Every effort must be made to prevent democracy being misused in the service of racism, racial discrimination and xenophobia.

61. Mr. Simkhada (Nepal) resumed the Chair.

62. Mr. CASTRO GRANDE (El Salvador) said that El Salvador had applied itself with determination to the task of peace-building, national reconciliation and the establishment of the rule of law, in particular by setting up an independent judiciary. It had also undertaken to recognize the legitimate demands of the more than 2,000 people who wished to know what had happened to members of their families who had disappeared between 1980 and 1983. In April 1998, the offence of forced disappearance had been included in the Penal Code and a bill on compensation to victims was being drafted. In May 1999, the Committee of Relatives for the Freedom of Persons Detained or Missing for Political Reasons in El Salvador (CODEFAM) had organized a seminar on the disappeared. The NGO Asociación Pro-Búsqueda de Niños y Niñas Desaparecidos and UNICEF had also organized a seminar on children who had disappeared as a result of the armed conflict. On that occasion, the Government had once again committed itself to investigating forced disappearances in El Salvador.

63. His delegation was grateful to the Working Group on Enforced or Involuntary Disappearances for having mentioned in its report (E/CN.4/2000/64) the successes of the Asociación Pro-Búsqueda de Niños y Niñas Desaparecidos, which had found 98 disappeared children and enabled them to rejoin their families in 10 different countries.

64. Mr. BAUMANIS (Latvia) said that States had a duty to ensure that the perpetrators of human rights abuses, wherever they were committed, did not escape human justice. The administration of justice and efforts to combat impunity were no longer merely national issues.

65. Without transparency, the international community would have no chance of assessing the compliance of a given country's court decisions with universal human rights standards. The

judiciary should be impartial, uncorrupted and independent of the legislative and executive powers. In Latvia, the independence of the judiciary was enshrined in the Constitution. The procedure for appointing judges aimed to ensure their independence. In addition, when domestic remedies were exhausted, every Latvian had the right to appeal to the European Court of Human Rights, since Latvia had ratified the European Convention on Human Rights. The Constitution had been amended so that international treaties were directly applicable in the Latvian courts. His delegation was well aware that to restrict judges' independence was to open the door to human rights violations, and it therefore supported the important work of the Special Rapporteur on the independence of judges and lawyers.

66. His delegation also welcomed the adoption of the Statute of the International Criminal Court and believed that there was a possibility of complementarity between a judicial body of that kind and a political body such as the Commission. He recalled that the General Assembly had, by its resolution 2391 (XXIII), adopted the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Latvia firmly supported that principle, regardless of the ideology in whose name such crimes were committed.

67. Mr. MENDONÇA MOURA (Portugal), speaking on behalf of the European Union, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Malta, said that by no means all human beings currently enjoyed all the civil and political rights contained in the Universal Declaration of Human Rights and the international human rights instruments, and which, under the Vienna Declaration and Programme of Action, States were obliged to incorporate into their domestic legal systems and effectively implement.

68. It was vital for member States to cooperate with the international human rights monitoring mechanisms. States that had not yet done so should therefore accede to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and should recognize the competence of the Human Rights Committee to consider communications received under article 41 of the Covenant and the competence of the Committee against Torture to consider communications received under articles 21 and 22 of the Convention. All States should take legislative, administrative and other measures to prevent the practice of torture and ensure that the perpetrators of such acts were brought to justice and that victims obtained compensation. It was important that law-enforcement officers should receive human rights training. In addition, all States should refrain from expelling, returning or extraditing a person to a State where there were substantial grounds for believing that he would be in danger of being subjected to torture, in accordance with article 3 of the Convention against Torture.

69. The European Union was disturbed at the use of arbitrary detention in individual countries. In China, for example, administrative detention and re-education through labour continued to be used on an arbitrary basis. The European Union urged the Chinese authorities to ensure that the rights of defence were observed and not to apply re-education through labour to persons who had merely exercised their fundamental freedoms.

70. The European Union was likewise gravely concerned at the police brutality and ill-treatment that were still often inflicted on detainees around the world and condoned or even actively encouraged by the authorities. Member States of the European Union therefore strongly

supported all action to combat such practices and were major contributors to the United Nations Voluntary Fund for Victims of Torture. Moreover, all European Union member States were signatories to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The European Union was pleased that Bolivia, Belgium, Turkmenistan, Japan and Mozambique had ratified the Convention in the previous year, and congratulated the Committee on the excellent work it had done.

71. The European Union was an active participant in the Working Group on the draft optional protocol to the Convention against Torture. It was essential to establish an independent and effective monitoring mechanism that would prevent the occurrence of torture.

72. The European Union welcomed the elaboration of the "Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment", which should be a fundamental tool for tackling the problem of impunity.

73. The European Union welcomed the excellent work of the Special Rapporteur on torture and urged States to fully cooperate with him. It was pleased that the Special Rapporteur had been able to visit Kenya, Cameroon and Romania during 1999 and that the Chinese Government had invited him to visit China. It regretted that the Governments of Algeria, Bahrain, Brazil, Egypt, India, Indonesia and Tunisia had still not invited the Special Rapporteur to visit their countries despite his requests to do so.

74. The European Union believed that the independence and impartiality of the judiciary were fundamental prerequisites for the effective protection of human rights. It therefore fully supported the work of the Special Rapporteur on the independence of judges and lawyers. It welcomed his visit to Guatemala in 1999 but regretted that the mission to South Africa had had to be called off for financial reasons. The European Union was deeply concerned about the proceedings instituted in Malaysia against the Special Rapporteur and called on the Malaysian Government to abide by the advisory opinion of the International Court of Justice, to the effect that the Special Rapporteur enjoyed immunity from legal process for statements made in his capacity as an independent expert.

75. The European Union fully supported the work of the Special Rapporteur on freedom of opinion and expression. It continued to be concerned at the non-observance of the freedom of opinion and expression in various parts of the world. It was particularly concerned at the harsh sentences recently imposed in China against members of the China Democratic Party and the Falun Gong movement and firmly condemned the fact that in China an individual could be punished merely for having exercised the right to freedom of expression. The European Union therefore called upon the Chinese authorities to observe the principles relating to that freedom in the International Covenant on Civil and Political Rights, to which China was a signatory, and urged it to ratify the Covenant.

76. The European Union similarly condemned the widespread prosecution and harassment of persons because of their religious belief. It particularly emphasized the importance of the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on* Religion or Belief and expressed concern at the recent detention and punishment of members of

the Christian church in China. The European Union also condemned the violation of women's rights as a result of intolerance and extremism based on religion. It hoped that the recommendations formulated by the Special Rapporteur on religious intolerance would soon be effectively implemented by all States.

77. Lastly, the European Union vigorously condemned enforced or involuntary disappearances and extrajudicial, summary or arbitrary executions. Impunity remained one of the major causes of such phenomena and the European Union called for effective action to eliminate it. It took note with appreciation of the recommendations contained in the report of the Working Group on Extrajudicial, Summary and Arbitrary Executions. It also welcomed the report submitted by the Working Group on Enforced or Involuntary Disappearances and underlined the importance of all States complying with the Declaration on the Protection of All Persons from Enforced Disappearance. The European Union regretted that some countries had not cooperated appropriately with the Working Group.

78. The European Union hoped that, through the strengthening of States' action to ensure respect for human rights, justice and the rule of law, and of the international machinery for the promotion and protection of human rights, the new millennium would see an improvement in the human rights situation around the world.

79. Mr. KUZNIAR (Poland) said that, of the three inseparable and interdependent elements of the triad mentioned in the Vienna Declaration and Programme of Action - human rights, development and democracy - it was democracy that had been the most neglected in international forums, including the Commission. In order to make up for that neglect, seven States - Chile, the Czech Republic, India, Mali, Poland, the Republic of Korea and the United States - had decided to organize an international conference, entitled "Towards a Community of Democracies", at which 130 States would be represented, to be held in Warsaw from 25 to 27 June 2000. Democracy was the fullest expression of individual aspirations. The advance of democracy throughout the world had been one of the most encouraging developments of the closing years of the second millennium. Democracy was a universal phenomenon, although it took different forms in different places, as the head of the Polish Government, Mr. Tadeusz Mazowiecki, had stressed during the pivotal period of transition from communism to democracy.

80. Democracy was now facing new challenges, including the phenomenon of globalization. Sometimes, economic underdevelopment, social instability, the intensification of internal conflicts and the collapse of State structures reduced democracy to mere electoral mechanisms that had nothing to do with human rights, and to which human rights could even become an obstacle. It was therefore essential to constantly reaffirm the close links that existed between authentic democracy and human rights. It was that belief that had inspired those seven countries to organize the first-ever conference dedicated solely to the topic of democracy. The conference would provide an opportunity to examine the threats to democracy around the world and ways of strengthening democracy in cooperation with regional and international institutions, the heads or representatives of which would be taking part in the Warsaw meeting. The organizers were convinced that the initiative would serve the cause of human rights around the world by strengthening the current wave of democratization.

81. Ms. NASCIMBENE DE DUMONT (Argentina) said that her country was particularly interested in the link between the enjoyment of human rights and democracy. Since taking office at the end of the previous year, the new President of Argentina, Mr. Fernando de la Rúa, had reaffirmed his commitment to the cause of human rights, most significantly by transferring the Under-Secretariat for Human Rights from the Ministry of Internal Affairs to the Ministry of Justice and Human Rights and by establishing in the Ministry of Foreign Affairs a post of special representative for human rights.

82. No country, whatever its Government's good intentions, was free of human rights violations, including the practice of torture and other ill-treatment. Argentina, whose past weighed heavily in that respect, was in favour of all measures to prevent torture, at both the national and the international levels, and wholeheartedly supported the activities of the Working Group on the draft optional protocol to the Convention against Torture. Moreover, the Argentine Government, understanding how important the Commission's special mechanisms were for the effective enjoyment of human rights, had just invited the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on religious intolerance to visit Argentina.

83. Argentina had inherited from its military dictatorship a tragic history of forced or involuntary disappearances. Cognizant of the work done at the time by the Working Group on that subject, the Argentine Government had opposed moves to disband it; it was in favour of reorienting the work of the Group, if necessary amending its mandate in order to make it more effective. Argentina believed it was time to draft a binding international instrument on forced or involuntary disappearances, perhaps drawing on the Inter-American Convention on Forced Disappearance of Persons.

84. The full enjoyment of human rights and the functioning of a genuine democracy were subject to the independence of the judiciary, which was a priority concern of the Argentine Government. In order to combat corruption, the President had established an ethics office under the direction of a former judge. The existence of remedies in justice for human rights violations had already made it possible to shed light on some of the crimes committed by the military dictatorship and on the fate of the disappeared.

85. The Argentine Government had established a compensation scheme for torture victims and families of the disappeared; that was another sign of its willingness to accept its responsibilities in the area of human rights.

86. Her delegation once again expressed its support for the Commission's work and mechanisms.

87. Ms. PEREZ DE PLANCHART (Venezuela) said that Venezuela was proud to be one of the oldest democracies in Latin America and party to all the international and regional human rights instruments; those rights were enshrined in Venezuela's new Constitution.

88. Venezuela believed that democracy and human rights were inseparable. It hoped that the international community would support all countries' efforts to achieve both those goals, by cooperating without judging.

89. Venezuela was committed to the promotion of the active participation of its people in the exercise of democracy; citizens must be actively involved in political life at all levels and not content themselves with being mere electors. In the previous year, Venezuela had suggested to the OAS General Assembly that it should organize a series of study days to consider participatory democracy; the event was to take place in April in Washington and should result in the preparation of a draft declaration to be adopted at the next annual session of the OAS General Assembly.

90. The delegation of Venezuela had co-sponsored the resolution on the right to democracy adopted at the fifty-fifth session of the Commission. Venezuela believed that the international community should embark cautiously, but with determination, on the process of recognizing a fundamental right that was the key to all human rights, and called on the international community to continue with its reflections and actions aimed at achieving the implementation of that right.

91. Mr. MAHMOUD (Observer for Iraq) recalled that Iraq had ratified the International Covenant on Civil and Political Rights in 1970; since then, the Government had devoted itself to promoting those rights through various political reforms or initiatives. The Constitution adopted in 1970 established the rights of all ethnic minorities, including the Kurds, and equality of all before the law. Also in 1970, the State had allowed political pluralism under the National Action Charter and the Charter of the National Progressive Patriotic Front. Members of the National Assembly were elected by universal secret ballot. The Autonomy Act and several other pieces of legislation authorized trade unionism and promoted freedom of association and women's participation in public life. A referendum on the office of the President of the Republic had taken place in 1995 in the presence of many foreign observers.

92. Unfortunately, Iraq's policy of openness and liberalization was hindered by the offensives mounted against it, which had threatened its sovereignty and the well-being of its people for more than 10 years. The situation of continuing aggression had compelled the authorities to take corrective measures in order to protect Iraqi society, but the Government had refrained from declaring a state of emergency, so as to ensure a normal life for its people. It was currently doing its best to maintain the application of the Constitution and of legislation, particularly with respect to freedom of religion and the enjoyment of the freedom of expression, opinion and the press. To that end, the State was committed to guaranteeing the independence of the judiciary and to monitoring the work of the executive.

93. For 10 years, the United States and the United Kingdom had used every means to harm Iraq, in violation of article 20 of the International Covenant on Civil and Political Rights. They sought to overthrow Iraq's political regime and did not hesitate to slander the Government and undermine national unity. They were threatening to renew their military offensive against Iraq.

94. Peace and security were necessary conditions for the protection of civil and political rights. The Iraqi delegation therefore appealed to the Commission to condemn foreign interference of any kind in northern Iraq and to guarantee the restoration of a normal situation that would allow the central authorities to regain their sovereignty and administer the autonomous region that was an integral part of Iraqi territory. It also requested the Commission to call for a halt to the embargo and to the attacks on Iraq.

Statements made in exercise of the right of reply

95. Mr. KANANURA (Rwanda) said he had noted a number of tendentious and unfounded allegations in the statement made by the Minister for Human Rights of the Democratic Republic of the Congo. Rwanda's military engagement in the Democratic Republic of the Congo was purely a response to security considerations: since the end of the civil war, it had been repelling incursions by the Interahamwe and by Congolese Government-backed militias. Calm had now returned to Rwanda, particularly the north-west of the country, as the United Nations Special Representative for Rwanda, Mr. Moussalli, had indicated. The Government of Rwanda was in no way attempting to destabilize the Democratic Republic of the Congo or to plunder it or install Rwandan Tutsis there. The Congolese population included Tutsis in any case. Under the Lusaka ceasefire agreement, all ethnic groups and nationalities in the Democratic Republic of the Congo should be protected by law and have equal rights.

96. His delegation was outraged at the statements made by a minister responsible for human rights concerning the Rwandan genocide and called on all members of the Commission to condemn what amounted to a trivialization of the genocide.

97. Mr. NAHAYO (Burundi) said that Burundi was not involved in the armed conflict in the Democratic Republic of the Congo. On the other hand, it was taking in civilians displaced by the war there. Refugees International, an NGO, had reported a threat of imminent attack by the militias on the Banyamulenge population, spurred on by President Kabila's policy of ethnic confrontation, which looked likely to lead to the collapse of the Lusaka agreements and plunge the country into war once again.

98. Burundi itself was in the throes of a civil war between government forces and FDD-FNL rebels. The reason the Burundi army was watching the Congolese frontier so closely was to prevent the rebels from mingling with the Banyamulenge refugees.

99. Mr. MINAKU (Democratic Republic of the Congo) said he wished to put the record straight on the human rights situation in his country, which was suffering the consequences of the war being waged by Uganda, Rwanda and Burundi. Uninvited foreign troops were occupying Congolese territory, as part of an armed attack. Rwandan, Burundi and Ugandan troops had invaded the east of the country, where they were plundering the natural resources. The 1994 genocide in Rwanda, appalling though it might have been, did not authorize Rwanda to send its army into Congolese territory in pursuit of the perpetrators; that was a serious violation of the Charter of the United Nations. The international community, and in particular the United Nations, should be asking questions about the presence of uninvited armed troops in the territory of the Democratic Republic of the Congo and about the massacres that had taken place in the east of the country.

The meeting rose at 6.05 p.m.